IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

WP(C).No. 3372 of 2007(B)

PETITIONER:

LEELAMMA ZACHARIA,
W/O.LATE EX.JWO ZACHARIA THOMAS,
VANIAPURACKAL HOUSE, EDATHUA P.O.,
ALAPPUZHA DISTRICT.

BY ADV. SRI.P.K.RAVISANKAR

RESPONDENTS:
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1. UNION OF INDIA, REPRESENTED BY ITS SECRETARY, MINISTRY OF DEFENCE, NEW DELHI.

2. PRINCIPAL CONTROLLER OF DEFENCE, ACCOUNTS (PENSION), ALLAHABAD.

3. OFFICER IN CHARGE, AIR FORCE RECORDS, SUBROTO PARK, NEW DELHI-10.

BY ADV. P.PARAMESWARAN NAIR, ASSISTANT SG

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 3372/2007 B

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE LETTER NO. RO/2853/234062/14371/HD/P&WW(FP) DT. 15/09/2006 BY R3 TO THE PETITIONER.

EXT.P2. COPY OF THE JUDGMENT DT. 12/09/2002 IN OP NO. 37748/2001 OF THIS COURT.

EXT.P3. COPY OF THE JUDGMENT DT. 7/3/2006 IN WPC NO. 30124/2005 OF THIS COURT.

True copy

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K.BALAKRISHNAN NAIR, J.

W.P.(C) No.3372 of 2007-B

Dated this the Ist day of June, 2007

J U D G M E N T

The petitioner is the widow of an ex-service man. After her husband's discharge from the Air Force on 1-4-1982, he was re-employed in the Life Insurance Corporation on 27-5-1987. He retired from the service of the LIC on 31-5-2003. He died on 20-1-2006. He was receiving military pension as well as pension from the LIC, till his death. The petitioner is paid family pension by the LIC. But, her motion for pension from the Air Force was rejected by Ext.P1. Hence, this writ petition challenging Ext.P1. The claim raised by the petitioner is covered by Exts.P2 and P3 judgments. Ext.P2 judgment was affirmed by the Division Bench of this Court in W.A. 1445 of 2003, it is submitted. Therefore, the petitioner prays for a direction to the respondents to grant family pension for her husband's service in the Air Force.

2. I heard the learned counsel for the respondents also. Going by Exts.P2 and P3, I am inclined to agree with the submission of the learned counsel for the petitioner that the petitioner's case is covered by those judgments. Accordingly, the writ petition is allowed. Ext.P1

is quashed. The second respondent is directed to grant family pension to the petitioner, ignoring that she is receiving pension from the LIC, provided she is otherwise eligible. In other words, the receipt of pension from the LIC shall not be taken as a disqualification.

The Writ Petition is allowed as above.

K.BALAKRISHNAN NAIR, JUDGE.

MS